

REMARKS

Claims 1, 3, 5-15, 17, 22-24, and 27-34 remain pending in the application including independent claims 1, 10, 17, 20, and 22. Claims 2, 4, 16, 18-19, 20-21 and 25-26 have been cancelled. New dependent claims 35 and 36 have been added.

Claim 32 does not currently stand rejected under any prior art. Thus, applicant asserts that claim 32 is allowable.

The examiner has indicated that claims 31 and 34 are allowable. Claim 34 has been rewritten in independent form.

Claims 10, 13, 15, and 20 stand rejected under 35 U.S.C. 102(b) as being anticipated by Hazelwood et al. Claims 11, 21, and 33 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hazelwood in view of AAPA. Claims 20 and 21 have been cancelled. Claim 10 has been amended to clarify that the speaker housing is formed as part of an air induction component that directs air to a vehicle engine. Hazelwood is directed to an audio speaker for a stereo system and does not teach the use of a speaker in an air induction component as set forth in claim 10.

Thus, applicant asserts that claims 10-15, 33, and 34 are now in condition for allowance.

Claims 1, 3, 5-9, 17, 22-24, and 27-30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Everingham in view of DeBruine and further in view of AAPA.

Claim 1 requires a speaker housing, an air cleaner housing positioned between the speaker housing and an engine, and a plurality of brackets for mounting the speaker and air cleaner housings to a vehicle structure wherein at least one bracket is joined to the speaker housing and at least one bracket is joined to the air cleaner housing. The examiner argues that Everingham discloses a

speaker housing 10 with a speaker 30 mounted in the speaker housing 10 and an air cleaner housing 20.

First, claim 1 requires the air cleaner housing to be positioned between the speaker housing and an engine. The air induction component 20 in Everingham is clearly not positioned between the speaker housing 10 and the engine 14. As shown in Figure 1, air induction component 20 is positioned on an end of the speaker housing 10 opposite from the engine 14, i.e. the speaker housing 10 is between the engine 14 and the air induction component 20.

The examiner previously argued that it would be obvious to change the position of the components to optimize performance of the system. The examiner now argues that it is obvious to reposition the air cleaner housing because “rearranging parts of an invention involves only routine skill in the art.” Again, applicant disagrees. The positioning of the air cleaner housing is not a mere rearrangement of parts, but instead provides many useful benefits not achieved by prior designs. The positioning and formation of air cleaner housing de-proliferates components and reduces cost, as explained in the subject application.

The examiner is clearly engaging in a hindsight reconstruction of the claimed invention, using applicant’s structure as a template and selecting elements from the references to fill the gaps. Applicant respectfully requests that the examiner provide a reference that shows the configuration set forth in the claims, as the only showing of such a configuration is in the subject application.

Second, claim 1 requires a plurality of brackets joined to the speaker and air cleaning housings. The examiner admits that Everingham does not disclose the use of a plurality of brackets. The examiner argues that DeBruine teaches a plurality of brackets that are joined to an exhaust pipe.

Applicant disagrees. DeBruine teaches the use of a single bracket assembly and not a plurality of brackets. Further, the bracket assembly in DeBruine is not joined to the pipe assembly. The bracket assembly is clamped around the pipe and allows for adjustment of the pipe in a plurality of directions. Claim 1 requires the distal portions of the brackets to be joined with the air cleaner or speaker housings.

Further, there is no teaching in either reference of a bracket that is specifically joined to a speaker housing in combination with a bracket that is specifically joined to an air cleaner housing where the brackets mount the respective housings to a vehicle structure. Thus, the combination of references does not disclose, suggest, or teach the features of claim 1.

Third, there is no motivation or suggestion to modify Everingham with DeBruine. The examiner argues that it would be obvious to provide Everingham with the bracket of DeBruine for the purpose of providing efficient support and stability for mounting the speaker housing to a vehicle. Applicant disagrees. The only modification based on the combination of Everingham and DeBruine that makes sense would be to use the clamping bracket assembly of DeBruine in Everingham. The DeBruine clamp is taught as being useful for a component, such as an exhaust pipe, which typically hangs underneath a vehicle floor. This is very different than the types of components set forth in Everingham and AAPA.

Further, DeBruine teaches using a single “universal” clamp as opposed to a plurality of brackets as set forth in claim 1. Thus, DeBruine actually teaches away from using a plurality of brackets. Additionally, there is no teaching in DeBruine, and the examiner has pointed to no such teaching in DeBruine or the prior art, that indicates that the DeBruine clamping assembly would be adequate for a speaker housing and air cleaner housing combination as claimed by applicant.

For similar reasons claims 17 and 22 are also allowable over the combination.

Finally, the combination of references does not disclose, suggest, or teach the features of the dependent claims. Claim 5 requires that the distal portions of the bracket be welded to the speaker and air cleaner housing. The examiner argues that DeBruine teaches this welding configuration at column 4, lines 35-38. Applicant disagrees. As set forth in DeBruine, “. . . still other embodiments may include a formed rod 22 that is adapted to be mounted to the vehicle 14 by welding or the like without a rubber insulator.” Column 4, lines 35-38. Thus, DeBruine teaches welding the bracket to the vehicle structure, not welding the bracket to the component itself.

Claim 6 requires the distal portions of the bracket to be fastened to the housings. The bracket assembly in DeBruine is clamped around the pipe. The bracket is not fastened to the pipe. The fasteners fasten the rod 22 to support plate 26 and fasten the U-bolt 42 to the support plate 26. There is no teaching of fastening to a speaker housing.

Claim 7 requires that the distal portions be pre-formed and insert molded into the housings. There is no teaching of this in DeBruine. The examiner admits this and seems to rely on the teaching of welding of the bracket to a vehicle structure as being equivalent to performing and insert molding the brackets to the housings themselves. The examiner has provided no basis or support for this assertion.

Claim 8 requires the distal portions to be snap fit to the housing. Again, there is no teaching in any of the references of this configuration. Further, the examiner has pointed to no teaching and has provided no argumentative support as to why this configuration would be obvious.

Claim 9 requires that the plurality of brackets comprise a single bracket body having a plurality of leg mounts that extend between the housings and the vehicle structure. The examiner

argues that DeBruine discloses a bracket that has a plurality of apertures that allow for lateral and longitudinal adjustment. This has absolutely no relevance to claim 9. The examiner relies on this irrelevant statement as the basis for an obviousness rejection. The examiner argues that based on the multiple apertures shown in DeBruine that it then “would have obvious [sic] to combine two or more brackets of such structure to comprise a single bracket comprising multiple legs for providing sufficient support of the length and weight capacity of the duct housing structure to the vehicle for the purposes of lessening vibrations. . . .” There is absolutely no support in DeBruine for the examiner’s assertion. DeBruine clearly teaches the use of a bracket having a single leg portion 22 extending between the pipe 12 and the vehicle 14. There is no teaching in DeBruine of a single bracket body having a plurality of leg mounts that extend between the vehicle structure and the housings as claimed by applicant.

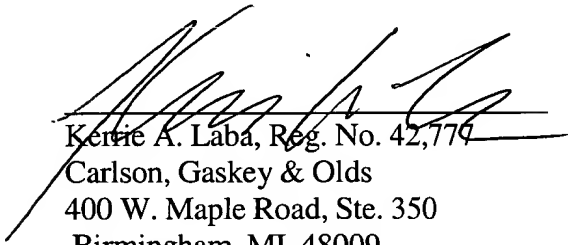
For similar reasons, dependent claims 23, 24, and 27-30 are also allowable over the cited references.

For the many reasons set forth above, the rejection of claims 1, 3, 5-9, 11, 17, 22-24, and 27-30 under 35 U.S.C. 103(a) based on the combination of Everingham, as modified by DeBruine, and as modified by AAPA is clearly improper and must be withdrawn.

Thus, Applicant believes all claims are now in condition for allowance and an indication of such is requested. Fees for the additional claims are paid by the attached check. Applicant believes no additional fees are due, however, the Commissioner is authorized to charge Deposit

Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Respectfully submitted,

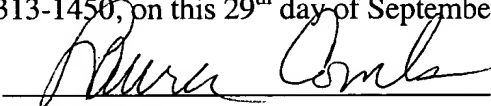


Kertie A. Laba, Reg. No. 42,779
Carlson, Gaskey & Olds
400 W. Maple Road, Ste. 350
Birmingham, MI 48009
(248) 988-8360

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CERTIFICATE OF MAIL

I hereby certify that the enclosed Response is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 29th day of September, 2004.



Laura Combs